

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.38255 of 2016

ORDER:

This writ petition, under Article 226 of Constitution of India, is filed seeking to declare the action of the respondents in not complying the orders passed in SR No.26/ 2004, dated 30.03.2005, as illegal and arbitrary, and contrary to the provisions of A.P.S.A.L.T. Reg.1/ 59 as amended by Reg.1/ 70 and consequently, direct the respondents not to interfere with the possession of the land covered in RS No.88 an extent of Acs.10.00 cents, in RS No.84/ 4 and extent of Acs.4.57 and Rs.No.85 and extent of Acs.2.92 cents, total extent of Acs.17.49 cents situated at Darbhagudem, Village Jeelugumilli Mandal, West Godavari District.

The case of the petitioner is that he and his brother are the owners and possessors of the above said land, which was purchased by their father in the year 1968. While so, after commencement of Land Transfer Regulations 1/ 59 as amended by Reg.1/ 70, the 5th respondent, who belongs to Scheduled Tribe community, filed a claim before the Special Deputy Collector (TW), Polavaram against the petitioner and his brother, stating that they are in possession of the said land in contravention of Reg.1/ 70. After receipt of notice, the petitioner appeared before the Spl.Dy.Collector, Polavaram and categorically deposed that the said land was acquired by their father during his lifetime much prior to the commencement of Land Transfer Regulations. After completion of enquiry, the Spl.Dy.Collector, Polavaram, disallowed the claim of the 5th respondent, vide order, dated 30.03.2005. The 5th respondent did not challenge the said order.

Heard and perused the material available on record.

Even though the 5th respondent made a claim over the subject land, the same was disallowed by a competent authority in the year 2005 itself. Admittedly, the 5th respondent has not filed any appeal against the said order. When the matter stood thus, the 4th respondent is interfering with the possession of the petitioner and also trying to evict him, without issuing any notice to the petitioner.

Considering the facts and circumstances of the case and also taking into consideration the grievance of the petitioner, the Writ Petition is disposed of directing the 4th respondent not to interfere with the possession of the petitioner over the subject land, without following due process of law.

No order as to costs. Miscellaneous Petitions pending if any, shall stand closed.

November 08, 2016.
KTL

RAJA ELANGO, J

